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8 Attorneys for the United States of America

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 MARK JAMES KNIGHTS,

16 Defendant.

No. CR-99-108-MJJ
CR-01-137-MJJ

PLEA AGREEMENT

17
18 I, Mark James Knights, and the United States Attorney's Office for the Northern
19 District of California (hereafter "the government") enter into this written plea agreement
20 (the "Agreement") pursuant to Rule 11(e)(1)(C) of the Federal Rules of Criminal
21 Procedure:

22 The Defendant's Promises

23 1. I agree to plead guilty to Counts One through Six of the Superseding
24 Information filed herein on June 14, 2002.

25 **Count One** charges me with conspiracy to damage and significantly disrupt an
26 energy facility in violation of 18 U.S.C. § 1366; to damage and destroy commercial
27 property by means of fire and explosives in violation of 18 U.S.C. § 844(i); and to steal
28 property of the United States in violation of Title 18, United States Code, Section 641.

FILED

JUN 27 2002

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 **Count Two** charges me with maliciously damaging by means of fire a telephone
2 communications vault of Pacific Bell in the area of Gateway Drive West
3 and Devlin Road in Napa on June 2, 1998, in violation of 18 U.S.C. § 844(i).

4 **Count Three** charges me with maliciously damaging by means of an explosive (a
5 pipe bomb) the Napa Valley Economic Development Corporation building at 1091 Fifth
6 Street in Napa on or about May 31, 1998, in violation of 18 U.S.C. § 844(i).

7 **Count Four** charges me with being a felon in possession of an explosive
8 (detonation cord) in violation of 18 U.S.C. § 842(i).

9 **Count Five** charges me with being a felon in possession of ammunition in
10 violation of 18 U.S.C. § 922(g)(1).

11 **Count Six** charges me with willfully injuring and committing a depredation
12 against property of the United States Department of Agriculture, causing damage to such
13 property in excess of \$1,000, in violation of 18 U.S.C. § 1361.

14 I agree that the elements and maximum penalties for each of these offenses are as
15 follows:

16 **Count One: Conspiracy, 18 U.S.C. § 371**

17 **Elements:** (1) agreement between the defendant and one or more persons to
18 commit a crime against the United States, to wit, arson, and (2) at least one affirmative
19 act in furtherance of the object of the conspiracy.

20 **Penalties:**

- | | | | |
|----|----|---------------------------------|------------------|
| 21 | a. | Maximum prison sentence | 5 years |
| 22 | b. | Maximum fine | \$ 250,000 |
| 23 | c. | Maximum supervised release term | 3 years |
| 24 | d. | Mandatory special assessment | \$100 |
| 25 | e. | Restitution | To be determined |

Count Two: Arson, 18 U.S.C. § 844(i)

Elements: (1) maliciously damaging or destroying, (2) by means of fire, (3) real or personal property, (4) used in, or in an activity affecting, interstate commerce.

Penalties:

- | | | |
|----|---------------------------------|------------------|
| a. | Maximum prison sentence | 20 years |
| b. | Maximum fine | \$ 250,000 |
| c. | Maximum supervised release term | 3 years |
| d. | Mandatory special assessment | \$100 |
| e. | Restitution | To be determined |

I understand that I am subject to a mandatory prison sentence of 5 years on this charge.

Count Three: Bombing of Economic Development Building, 18 U.S.C. § 844(i)

Elements: (1) maliciously damaging or destroying, (2) by means of an explosive, (3) real property, (4) used in, or in an activity affecting, interstate commerce.

Penalties:

- | | | |
|----|---------------------------------|------------------|
| a. | Maximum prison sentence | 20 years |
| b. | Maximum fine | \$ 250,000 |
| c. | Maximum supervised release term | 3 years |
| d. | Mandatory special assessment | \$100 |
| e. | Restitution | To be determined |

I understand that I am subject to a mandatory prison sentence of 5 years on this charge.

Count Four: Felon in Possession of Explosives, 18 U.S.C. § 842(i)(1)

Elements: (1) knowing possession of an explosive; (2) the defendant having previously been convicted of a felony punishable by a term of imprisonment exceeding one year, and (3) the explosive had been shipped or transported in interstate or foreign commerce.

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Penalties:

- | | | |
|----|---------------------------------|------------|
| a. | Maximum prison sentence | 10 years |
| b. | Maximum fine | \$ 250,000 |
| c. | Maximum supervised release term | 3 years |
| d. | Mandatory special assessment | \$100 |
| e. | Restitution | None |

Count Five: Felon in possession of ammunition, 18 U.S.C. § 922(g)(1)

Elements: (1) knowing possession of ammunition, (2) the defendant having previously been convicted of a felony punishable by a term of imprisonment exceeding one year, and (3) at some time in the past, the ammunition had crossed state lines.

Penalties:

- | | | |
|----|---------------------------------|------------|
| a. | Maximum prison sentence | 10 years |
| b. | Maximum fine | \$ 250,000 |
| c. | Maximum supervised release term | 3 years |
| d. | Mandatory special assessment | \$100 |
| e. | Restitution | None |

Count Six: Degradation of Government Property, 18 U.S.C. § 1361

Elements: (1) the defendant willfully injured or committed a depredation, (2) against property of the United States or any department of agency thereof, and (3) in an amount exceeding \$1,000.

Penalties:

- | | | |
|----|---------------------------------|------------------|
| a. | Maximum prison sentence | 10 years |
| b. | Maximum fine | \$ 250,000 |
| c. | Maximum supervised release term | 3 years |
| d. | Mandatory special assessment | \$100 |
| e. | Restitution | To be determined |

1 2. I agree that I am guilty of the offenses to which I am pleading guilty, and I
2 agree that the following facts are true:

3 **(a) Conspiracy, 18 U.S.C. § 371**

4 I knowingly agreed and conspired with Stephen Simoneau to damage and attempt
5 to damage the property of energy facilities of Pacific Gas & Electric (PG&E), and to
6 cause and attempt to cause a significant interruption and impairment of PG&E's energy
7 facilities. I also conspired with Stephen Simoneau to damage and destroy commercial
8 property by means of fire and explosives in the Napa County areas. I also conspired with
9 Stephen Simoneau to steal U.S. government property.

10 The property I conspired to commit arson against was property used in interstate
11 commerce. In furtherance of this conspiracy, between approximately January 1996 and
12 June 1998, I committed various vandalisms to PG&E property in Napa, California. These
13 vandalisms included throwing switches, cutting guy wires, and disrupting service at
14 PG&E substations by throwing chains onto the electrical equipment at these substations.

15 I also participated in using fire to damage and disrupt a PG&E transformer.

16 I also participated in using fire and explosives to damage and destroy other
17 commercial property.

18 I agree that I participated in committing the following overt acts in furtherance of
19 the conspiracy charged in Count One of the Superseding Information, which are as
20 follows:

21 1. On or about January 30, 1996, I participated in cutting the lock to the gate at
22 PG&E's Pueblo substation in Napa, California ("Napa"), and tossing chains onto the
23 substation bars, causing a power outage.

24 2. On or about June 16, 1996, I participated in detonating an explosive (a pipe
25 bomb) blowing up and destroying a Pacific Bell coin telephone unit at 1050 Freway Drive
26 in Napa.

27 3. On or about September 3, 1996, I participated in throwing chains onto the
28 transformers at PG&E's Pueblo substation, causing a power outage.

1 4. On or about October 31, 1997, I participated in throwing pieces of chain onto
2 PG&E's Pueblo substation buss bars, causing a power outage.

3 5. On or about November 7, 1997, I opened a PG&E air switch on a pole west of
4 the Imola Street bridge, and opened a second PG&E switch on Franklin Avenue, in Napa,
5 causing power outages.

6 6. On or about November 11, 1997, I participated in cutting guy-wires to a PG&E
7 transmission pole within Tulachay Cemetery in Napa, causing a power outage.

8 7. On or about December 31, 1997, I participated in cutting a PG&E guy-wire on a
9 power pole in the 100 block of Riverside Street in Napa, causing a power outage.

10 8. On or about March 5, 1998, I opened a PG&E air switch on a utility pole near
11 the Pueblo substation on Big Ranch Road, Napa County, causing a power outage.

12 9. On or about May 23, 1998, I participated in throwing a metal cable across a
13 PG&E line on Green Valley Road near Wild Horse Canyon Road in Napa County,
14 causing a power outage.

15 10. On or about May 23, 1998, I participated in using gasoline to ignite a fire
16 intending to destroy a PG&E electrical transformer in front of 1075 Golden Gate Avenue
17 in Napa.

18 11. On or about May 24, 1998, Stephen Simoneau and I possessed numerous pieces
19 of chain and gasoline in a pick-up truck adjacent to a PG&E gas line located at Highway
20 29 and Zinfandel Lane in Napa.

21 12. On or about June 2, 1998, I rode in co-conspirator Steven Simoneau's pickup
22 truck to the area of Gateway Drive West and Devlin Road near the Napa County airport,
23 where we pried off the lock to a PG&E electrical control box and tampered with the
24 insulation panels.

25 13. On or about June 2, 1998, after breaking into the PG&E control box, Stephen
26 Simoneau and I pried off the lock to an adjacent Pacific Bell vault, believing the vault to
27 be a facility of PG&E, and used gasoline to ignite a fire inside the vault.

28

1 14. On or about June 3, 1998, we drove in co-conspirator Steven Simoneau's
2 pickup truck that contained flammable liquids, containers labeled Pyrodex black powder,
3 black electrical tape, a diagram of an electric device, chains, cutting instruments, white
4 tape, pieces of wax, PG&E master keys, and destructive devices (a Molotov cocktail and
5 Pyrodex explosive powder).

6 15. On or about October 15, 1998, Stephen Simoneau and I forced entry into the
7 office of the United States Department of Agriculture ("USDA") at 1303 Jefferson Street
8 in Napa, and stole property belonging to the USDA, including keys to multiple
9 government vehicles parked in an adjacent lot.

10 16. On or about October 15, 1998, using the keys we had stolen in the burglary of
11 the USDA office, we stole a 1996 Jeep Cherokee owned by the USDA.

12 **(b) Destruction of Property of Pacific Bell by Fire, 18 U.S.C. § 844(i)**

13 As I have acknowledged above, on or about June 2, 1998, I participated in prying
14 off the lock to a PG&E power box, and removing the insulation panels inside, located on
15 Devlin Road near the Napa County airport. A Pacific Bell telecommunications vault was
16 located adjacent to the PG&E box. Stephen Simoneau and I pried off the lock to the
17 Pacific Bell vault, and using gasoline, I participated in igniting a fire inside the vault,
18 causing extensive damage to the facility and eliminating telephone service to the airport
19 area.

20 **(c) Bombing of Napa Valley Economic Building, 18 U.S.C. § 844(i)**

21 I also agree that on or about May 31, 1988, I ignited a pipe bomb that included
22 detonation cord as one of the components, ^{intentionally} ~~intending~~ to damage ^{ing} the Napa Economic
23 Development Corporation building at 1091 Fifth Street in Napa. The explosion caused
24 damage to the rear door area of the building. I agree that the activities of this corporation
25 affected interstate commerce.

26 //

27 //

28 //

MAH
DEM
RAF

1 **(d) Felon in Possession of Explosives, 18 U.S.C. § 842(i)(1)**

2 I agree that between the period May 31, 1998 and June 3, 1998, I had detonation
3 cord in my possession. Detonation is an explosive and I knew it was illegal to possess
4 this detonation cord. Stephen Simoneau and I had stolen this detonation cord from the
5 Staggs Leap Winery in Napa. The detonation cord seized on June 3, 1998, during a
6 search of my apartment, was from the spool of detonation cord stolen from the Winery.
7 Prior to my possession of this detonation cord, I had been convicted of a felony drug
8 offense, sale/furnishing of marijuana, punishable by a term of imprisonment exceeding
9 one year. This detonation cord was manufactured in Quebec, and thus, had previously
10 been shipped in interstate commerce.

11 **(e) Felon in possession of ammunition, 18 U.S.C. § 922(g)(1)**

12 I agree that on June 3, 1998, inside my apartment at 538 Brown Street, Apartment
13 6, I knowingly possessed numerous rounds of live ammunition, including approximately
14 173 rounds of M-60 machine gun ammunition with 34 rounds of tracer ammunition; 34
15 rounds of .32 caliber ammunition; and 38 rounds of 9-millimeter ammunition. These
16 rounds of ammunition were manufactured outside the State of California; accordingly,
17 they had crossed state lines at some time in the past. In 1990, I had been convicted of a
18 felony drug offense, sale/furnishing of marijuana, punishable by a term of imprisonment
19 exceeding one year. By virtue of this felony conviction, I knew that I was prohibited
20 from possessing firearms or ammunition.

21 **(f) Degradation of Government Property, 18 U.S.C. § 1361**

22 I agree that on or about October 15, 1998, Stephen Simoneau and I broke into the
23 United States Department of Agriculture (USDA) office in Napa, California, and stole
24 keys to multiple vehicles and gasoline credit cards. Using a key stolen from the office, I
25 stole a 1996 Jeep Cherokee from the parking lot adjacent to the USDA office. I used the
26 Jeep until I abandoned it near an industrial park at the Napa Airport on or about
27 November 19, 1998. I stole the Jeep a second time from the Chrysler dealership in Napa
28 where the Jeep was being repaired and detailed after its recovery at the airport. I agree

1 that my theft of the Jeep caused more than \$1,000 damage.

2 3. I agree to give up all rights that I would have if I chose to proceed to trial,
3 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
4 examine government witnesses; to remain silent or testify; to move to suppress evidence
5 or raise any other Fourth or Fifth Amendment claims; to any further discovery from the
6 government, as may be limited by United States v. Ruiz, 241 F.3d 1157 (9th Cir. 2001);
7 and to pursue any affirmative defenses and present evidence.

8 4. I agree to give up my right to appeal my conviction, the judgment, and
9 orders of the Court. I also agree to waive any right I may have to appeal my sentence.

10 5. I agree not to file any collateral attack on my conviction or sentence,
11 including a petition under 28 U.S.C. §2255, at any time in the future after I am sentenced,
12 except that I may file a timely petition under § 2255 to assert a claim that my
13 constitutional right to the effective assistance of counsel was violated.

14 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
15 entered, unless the Court declines to accept the sentence agreed upon by the parties in
16 paragraph 8 below. I agree that the government may withdraw from this agreement if the
17 Court does not accept the sentence agreed upon by the parties in paragraph 8 below.

18 7. I agree that the Sentencing Guidelines should be calculated as follows, and
19 I will not ask for any other adjustments to, reductions of, or downward departures from,
20 the offense level:

21 (a) For purposes of the multiple counts provisions of the Sentencing
22 Guidelines (§ 3D1.1), Counts 1 and 2 comprise one Group¹; Counts 3 and 4 comprise one
23 group; Counts 5 and 6 are each a separate Group.

24 (b) The guidelines should therefore be calculated as follows:
25
26

27
28 ¹ Count 1 also groups with Counts 3 and 6 insofar as the substantive offenses
charged in Counts 3 and 6 correspond with objects of the conspiracy charged in Count 1.

1	(1)	Counts 1 and 2: adjusted offense level, U.S.S.G. §§ 2K1.4(a)(4), 2B1.3	21
2	(2)	Counts 3 and 4: adjusted offense level, U.S.S.G. §§ 2K1.4(a), 2K1.3	22
3	(3)	Count 5: adjusted offense level, U.S.S.G. § 2K2.1	20
4	(4)	Count 6: adjusted offense level, U.S.S.G. § 2B1.1	6
5	(5)	Multiple Counts Adjustment, § 3D1.4 [3 units = 3 additional levels]	+3
6	(6)	Acceptance or responsibility: (If I meet the requirements of U.S.S.G. § 3E1.1)	-3
7	(7)	Adjusted offense level	<u>22</u>

11 (c) The parties make no agreement as to the applicable criminal history
12 category. The parties anticipate that the defendant's criminal history category is Category
13 VI. The applicable Guideline range for an adjusted offense level of 22, at criminal
14 history category VI, will be 84-105 months.

15 8(a). The parties stipulate and agree to the imposition of the following sentence:
16 **120 months imprisonment**, to be followed by a **3-year term of supervised release**,
17 subject to terms and conditions to be set by the Court, including a search condition;
18 **restitution** in an amount to be determined by the Court; and a **special assessment of**
19 **\$100** for each of the six counts to which I am pleading guilty. The parties leave open the
20 issue of a fine.

21 8(b). If the Guideline range determined to be applicable by the district court does
22 not encompass a sentence of 120 months imprisonment, I agree that an upward departure
23 to 120 months is appropriate (1) pursuant to Guideline § 5K2.6 because my criminal
24 conduct during the period 1996-1998 involved the use of explosive devices (pipe bombs);
25 and (2) pursuant to Guideline § 5K2.21 because the government has agreed not to charge
26 me with violations of 18 U.S.C. §§ 844(h) and 924(c) which would substantially increase
27 my term of imprisonment if I were to be convicted of these offenses at trial.
28

1 8(c). I further agree that the mandatory minimum 5-year term of imprisonment to
2 be imposed on each of Counts 2 and 3, will be ordered to run consecutively, for a total of
3 120 months..

4 8(d) In return for the government's promises set out below, I agree to pay
5 restitution for all the losses caused by all the schemes or offenses with which I was
6 charged in this case. I agree that I will make a good faith effort to pay any fine, forfeiture
7 or restitution I am ordered to pay. Before or after sentencing, I will, upon request of the
8 Court, the government, or the U.S. Probation Office, provide accurate and complete
9 financial information, submit sworn statements and give depositions under oath
10 concerning my assets and my ability to pay, surrender assets I obtained as a result of my
11 crimes, and release funds and property under my control in order to pay any fine,
12 forfeiture, or restitution. I agree to pay the special assessment at the time of sentencing.
13 As agreed in paragraph 8(a) above, the parties leave open the issue of a fine. If the Court
14 imposes a fine against me as part of my sentence, I agree that I will make a good faith
15 effort to pay any fine or forfeiture I am ordered to pay.

16 9. I agree not to commit or attempt to commit any crimes before sentence is
17 imposed or before I surrender to serve my sentence; violate the terms of my pretrial
18 release (if any); intentionally provide false information or testimony to the Court, the
19 Probation Office, Pretrial Services, or the government; or fail to comply with any of the
20 other promises I have made in this Agreement. I agree that, if I fail to comply with any
21 promises I have made in this Agreement, then the government will be released from all of
22 its promises, but I will not be released from my guilty plea.

23 10. I agree that this Agreement contains all of the promises and agreements
24 between the government and me, and I will not claim otherwise in the future.

25 11. I agree that this Agreement binds the U.S. Attorney's Office for the
26 Northern District of California only, and does not bind any other federal, state, or local
27 agency.

28

1 The Government's Promises

2 12. The government agrees to move to dismiss any open charges pending
3 against the defendant in the captioned indictment at the time of sentencing.

4 13. The government agrees not to file or seek any additional charges against the
5 defendant that could be filed as a result of the investigation that led to the pending
6 indictment. This includes any charges based on the sawed-off shotgun recovered in
7 December 1998 from the 1996 Jeep Cherokee that I stole from the Department of
8 Agriculture.

9 14. The government agrees to the sentence agreed upon in paragraph 8 above.

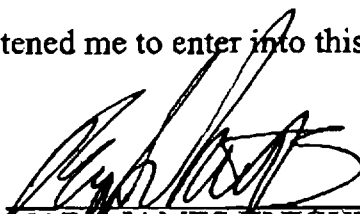
10 The Defendant's Affirmations

11 15. I confirm that I have had adequate time to discuss this case, the evidence,
12 and this Agreement with my attorney, and that she has provided me with all the legal
13 advice that I requested.

14 16. I confirm that while I considered signing this Agreement and, at the time I
15 signed it, I was not under the influence of any alcohol, drug, or medicine.

16 17. I confirm that my decision to enter a guilty plea is made knowing the
17 charges that have been brought against me, any possible defenses, and the benefits and
18 possible detriments of proceeding to trial. I also confirm that my decision to plead guilty
19 is made voluntarily, and no one coerced or threatened me to enter into this Agreement.

20
21 Dated: 6-27-02

22 
23 MARK JAMES KNIGHTS
24 Defendant
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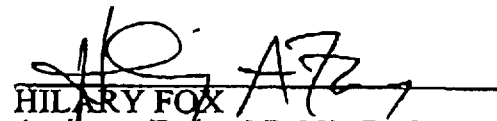
DAVID W. SHAPIRO
United States Attorney

Dated: 6/27/02


MARTHA BOERSCH
GEORGE L. BEVAN JR.
Assistant United States Attorneys

I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights he is giving up by pleading guilty, and, based on the information now known to me, his decision to plead guilty is knowing and voluntary.

Dated: 6/27/02


HILARY FOX
Assistant Federal Public Defender
Attorney for Defendant